

Commonwealth of Kentucky  
Before the Public Service Commission

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In the Matter of:

NORTHERN KENTUCKY WATER DISTRICT                    )  
APPLICATION FOR A GENERAL RATE INCREASE        )  
AND FOR FINANCING AND CONSTRUCTION            )       Case No. 2003-00224

ATTORNEY GENERAL'S RESPONSE TO  
APPLICANT'S PETITION FOR REHEARING

The Attorney General submits his response to the Northern Kentucky Water District's Petition for Rehearing. "KRS 278.400 'requires parties to Commission proceedings to use reasonable diligence in the preparation and presentation of their case and serves to prevent piecemeal litigation of issues.'"<sup>1</sup> In light of this standard, the District does not demonstrate the need for rehearing on the issue of the Cost of Service to Florence and Boone District.

The Petition for Rehearing does not provide the complete story. The District - in its application - removed revenues from the test year associated with sales for resale to Boone County Water District and the City of Florence ("Boone/Florence"). It did not remove corresponding variable operating expenses.

The District extracted one aspect of the test year without extracting its natural counterpart. The effort was contrary to a basic principle of rate-making (matching).

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<sup>1</sup> *In the Matter of: Adjustment of the Rates of Kentucky-American Water Company*, Case No. 2000-00120, Order, 26 February 2001, page 3 (citation omitted).

Further, the District's position was inconsistent with the Commission's treatment of the Boone/Florence sales for resale revenues and expenses in Case No. 2002-00105.

In order to afford the Boone/Florence sales for resale issue the same treatment in this case, a pre-hearing discovery request was made for the District to provide the operational expense savings associated with the removed sale of this water and the derivation of the assumed cost per gallon amount.<sup>2</sup> The District did not provide the information in its response or supplemental response.

Consequently, the Attorney General recommended the use of .40 cents per 1,000 gallons (the amount from Case No. 2002-00105) as the appropriate operating expense cost for the removed sales because it was the best evidence that was available.

At the 11<sup>th</sup> hour, the District, which at all times has the burden of proof, did submit a worksheet showing a calculation of variable costs with a lower per 1,000 gallon unit cost. The District, however, did not demonstrate the accuracy or reliability of this calculation. As the 14 June 2004 Order notes, the District's information regarding the sales to Boone/Florence is not consistent, the Commission is unable to replicate the District's variable cost calculations presented **at the hearing**, and the District's evidence is unclear and contradicts its statements made in Case No. 2002-00105. "Therefore, Northern District has failed to persuade the Commission that its adjustment in Case No. 2002-00105 is inaccurate or unreasonable."<sup>3</sup>

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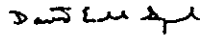
<sup>2</sup> AG 1 – 11 (c).

<sup>3</sup> Order, page 18.

The District ignored the discovery request to determine the proper amount for the variable expense cost for Boone/Florence. The late production of the information did not provide the Attorney General or the Commission with a reasonable opportunity to review and analyze the evidence. Thus, having failed to act with reasonable diligence to make its case on this point, the District has no grounds to complain. The Commission should deny the District's request for rehearing on this point.

Respectfully submitted,

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Counsel certifies that an original and ten photocopies of this response were served and filed by hand delivery to Beth O'Donnell, Executive Director, Public Service Commission, 211 Sower Boulevard, Frankfort, Kentucky 40601; furthermore, it was served by mailing a true and correct of the same, first class postage prepaid, to Ronald J. Barrow, Northern Kentucky Water District, P. O. Box 230, Cold Spring, Kentucky 41076; John N. Hughes, 124 West Todd Street, Frankfort, Kentucky 40601; and Charles H. Pangburn, III, Hemmer, Spoor, Pangburn, DeFrank & Kasson PLLC, 250 Grandview Drive, Suite 200, Fort Mitchell, Kentucky 41017, all on this 9<sup>th</sup> day of July 2004.

  
Assistant Attorney General